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Date: 6/8/05

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To: Examiner Pickard; Group 3676
Recipient Fax: 703-872-9306

Enclosed is Request for Withdrawal of an Improper Final in
S.N.10/630723.

Sincerely,
Patent & Trademark Service

By:

Joseph H. McGlynn

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Date

By: Joseph H. McGlynn
Joseph H. McGlynn

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SERIAL No. 10/630723

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Joseph Bartle

Serial No: 10/630723

Group Art Unit: 3676

Filed: July 31, 2003

Examiner: Pickard

Title: Cinchpac Self-Loading Rotary Shaft Seal

REQUEST FOR WITHDRAWAL OF IMPROPER FINAL ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

Applicant requests the withdrawal of the rejection made in the Office action mailed May 4, 2005, because the Office action fails to comply with MPEP Section 706.07(a), which states,

"...second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant..."

In the present application, claim 14 is original claim 7 rewritten in independent form (see applicant's remarks page 5, line 5, in the amendment filed February 15, 2005. Therefore, the Final is improper since it is a direct violation of the MPEP Section 706.07(a) and should be withdrawn.

In addition, the examiner states on page 3, lines 20 - 22, "Applicant's specification makes no mention of the serpentine shape". This is inaccurate. The Specification page 5, lines 3 - 7, states,

"The lands 10 form a labyrinth seal between the boot and the shaft since they are positioned in a nonsymmetrical pattern, as shown in FIG. 3, and therefore, eliminate leakage paths between the boot and the shaft. In addition, the lands 10 focus a closing force onto the shaft once the

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fasteners that pass through apertures 11 on outer ring plate 3 are tightened into block 2".

Original claim 7 described this nonsymmetrical pattern as "serpentine". Since the original claims are part of the Specification, the term "serpentine" was a part of the original Specification.

Also, Chu does not disclose that the lands on his wear ring form "serpentine" passages. In fact if the lands on his wear ring form "serpentine" passages his device would be inoperable. Applicant's lands are designed to eliminate leakage paths (see the Specification page 5, line 5), whereas Chu's lands are designed to allow oil to flow along the surfaces of the wear rings (see Chu, col. 7, lines 14 - 21). Therefore, it would not be obvious to make the passageways between the lands 26 of Chu serpentine, since this formation would block the flow of oil and render the device inoperable for its intended purpose.

Therefore, applicant requests the withdrawal of the improper Final rejection and the withdrawal of the improper rejections and an early allowance of the application.

Respectfully submitted,
Patent & Trademark Services, Inc.™

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